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VIA ECF

The Honorable Vernon S. Broderick, U.S.D.J.
United States District Court for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: *City of Riviera Beach General Employees Retirement System v.
Macquarie Infrastructure Corporation, et al.*, 18-CV-3608-VSB (S.D.N.Y.)

Dear Judge Broderick,

We represent Defendants Macquarie Infrastructure Corporation (“MIC”) and the individual defendants in the above-referenced action. As we previously advised the Court, on September 29, 2023, the Supreme Court of the United States granted a writ of certiorari in this matter to determine whether the Second Circuit erred in holding that a failure to make a disclosure required under Item 303 of SEC Regulation S-K can support a private claim under Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder, even in the absence of an otherwise misleading statement. Argument before the Supreme Court took place on January 16, 2024.

We write to advise the Court that, on April 12, 2024, the Supreme Court issued a unanimous decision in Defendants’ favor “confirm[ing] that the failure to disclose information required by Item 303 can support a Rule 10b–5(b) claim only if the omission renders affirmative statements made misleading.” (A copy of the Court’s Opinion is attached hereto as Exhibit A.) Accordingly, the Court vacated the judgment of the Second Circuit and remanded the case for further proceedings. The mandate of the Supreme Court is expected to issue on or after May 14, 2024.

Respectfully submitted,

s/John E. Schreiber
John E. Schreiber

cc: All Counsel of Record (via ECF)